ISRAEL

In 1998, the U.S. trade deficit with Israel was $1.7 billion, an increase of $317 million from the U.S. trade deficit of in 1997. U.S. merchandise exports to Israel were $7.0 billion, an increase of $985 million (16.4 percent) from the level of U.S. exports to Israel in 1997. Israel was the United States' 20th largest export market in 1998. U.S. imports from Israel were $8.6 billion in 1998, an increase of $1.3 billion (17.8 percent) from the level of imports in 1997. The stock of U.S. foreign direct investment (FDI) in Israel in 1997 was $2.3 billion, an increase of 10.9 percent from the level of U.S. FDI in 1996. U.S. FDI in Israel is concentrated largely in the banking, manufacturing and financial service sectors, but a substantial portion of new investment approvals are in infrastructure sectors.

The United States-Israel Free Trade Area Agreement

The United States-Israel FTAA, implemented on September 1, 1985, called for phased tariff reductions culminating in the complete elimination of duties on non-agricultural products effective January 1, 1995. The agreement eliminates most trade barriers between the United States and Israel, leaving Israel's agricultural sector as the only one where substantial non-tariff barriers and levies remain. The FTAA also provides for a consultative mechanism between the parties. The U.S.-Israel Joint Economic Committee (JEC), created to supervise implementation of the agreement, has proved itself a useful mechanism for addressing a wide range of bilateral trade issues.

Given the substantial trade barriers remaining in the agricultural sector, on November 4, 1996, the United States and Israel executed an Agricultural Agreement establishing a five-year program of gradual and steady market access liberalization for food and agricultural products.

IMPORT POLICIES

Agriculture

Israel maintains extensive restrictions on food and agricultural imports. These include tariff rate quotas (TRQs), prohibitive levies, and import bans. Quantitative or non-tariff measures (such as TRQs and bans) are permitted under the 1985 FTAA and, by inference, the 1996 Agriculture Agreement, on the basis of agricultural policy considerations or on religious grounds.

According to the 1996 Agricultural Agreement, all U.S. food and agricultural products have access to the Israeli market under one of three different categories: duty-free; TRQs; or preferential tariffs, which are generally set at 10 percent below Israel's Most-Favored Nation (MFN) rates. Although exports of many U.S. agricultural products to Israel are still restricted, the 1966 Agreement provides for improved access during each year of the agreement by increasing the TRQs and reducing tariff levels for a significant number of U.S. goods.

Despite improved market access for many U.S. agricultural products, a number of significant problems remain. Although Israel has agreed to improve transparency in the calculation of levies, progress remains uneven. The principal problem lies in the calculation of domestic costs of production in Israel as the basis for high import levies imposed on imported food and agricultural goods. Another issue is the treatment of certain imports that is inconsistent with Article VI of the 1985 FTAA. For example, Israel imposes levies on processed food products such as pasta, pastry, baked goods, some modified starches and processed fish, none of which are subject to agricultural policy considerations as required by Article VI. Despite increased local currency CIF values resulting from a 25-percent depreciation of the shekel between November 1996 and November 1998, in November 1998, the government raised, by an average 20 percent, levies based on production costs.

U.S. agricultural producers have experienced difficulties with the Israeli TRQ system. U.S. officials have received many complaints about Israeli delays in issuing import licenses and have expressed concern about the lack of timeliness or transparency in the TRQ licensing process.

U.S. meat exports to Israel face an especially difficult environment due to a complete ban on imports of all non-kosher meat and meat products and very restrictive kashrut (kosher) certification requirements which U.S. plants cannot easily meet. The import ban is administered in violation of Article 8 of the FTA, which only permits prohibitions on religious grounds if applied in accordance with the principle of national treatment. Since non-kosher meat is produced and sold locally in Israel, U.S. exports clearly are being denied equal access. The United States has requested consultations with the Government of Israeli under the provisions of the FTAA.

Israel imposed a prohibitive levy on imports of U.S. lobster on September 15, 1998. Although Israeli officials claimed this levy would be eliminated soon, thus far no action has been taken.

Israel prevents the increase of quality U.S. wine imports with prohibitive duties and technical barriers to trade involving chemical testing and labeling requirements not demanded of domestic producers. As provided in the 1996 Agricultural Agreement, the United States has requested that the Government of Israeli enter into discussions to improve market access for U.S. wine.

In December 1997, the United States and Israel agreed to a 2,000 metric ton TRQ at a duty of $1.80/kg for shelled almonds and a 180 ton TRQ at $1.35/kg for in-shell almonds in an attempt to resolve a disagreement on market access for U.S. almonds. Imports intended for use in chocolate manufacturing would continue to enter duty-free. Although U.S. almond exports to Israel in 1998 exceeded the negotiated TRQ levels, U.S. exporters have cited problems with timing and transparency in the allocation of import licenses. U.S. industry representatives also argue that the current arrangement does not permit additional access when there are shortages in the local Israeli market.

Elimination of these barriers to agricultural products could result in a potential increase in U.S. exports of USD 25-100 million.

TAMA

The Government of Israel uses a system known as “TAMA" to approximate the local wholesale price of a good by adding "estimated profits," insurance, and inland freight to the declared value of an import for purposes of calculating purchase taxes. Coefficients for calculation of the TAMA vary from industry to industry and from product to product, but the effect is to establish higher taxes on imports than are applied to domestic products. In 1991, at the urging of the United States, the Government of Israel revised the TAMA calculation system, providing most registered importers with the option to declare the actual wholesale value of their products. Although the new arrangement has been in force since 1991, not a single importer has opted for the new system. Israeli officials claim that the importers are reluctant to use the new system because they have determined that the former TAMA rates are more advantageous. Importers, however, cite a variety of problems with the optional system, including the inability to modify prices once they have been declared. As the new optional TAMA has not operated as anticipated, the United States continues to seek to eliminate the discriminatory effect of TAMA on U.S. exports, which could result in a potential increase in U.S. exports of between USD 10 and 25 million.

Israel

Harama

Prior to January 1998, Israel had maintained a customs practice known as "harama," meaning "uplift." Harama was applied at the pre-duty stage to the CIF value of goods to bring the value of the products to an acceptable level for customs valuation. In January 1998, Israel implemented the WTO Customs Valuation Agreement, including enabling legislation, effectively eliminating this barrier.

Purchase Taxes

Purchase taxes of 25 to 95 percent are applied on goods ranging from automobiles and refrigerators to alcoholic beverages and cigarettes. On many other products, including consumer electronics, building inputs, and office equipment, Israel has reduced or eliminated purchase taxes. Where remaining, purchase taxes apply to both local and foreign products. However, where there is no local production of the imported good, the purchase tax becomes a duty-equivalent charge. We estimate elimination of the purchase tax would lead to a potential increase in U.S. exports of between $25 and 100 million.

Wharfage and Port Fees

Until 1995, Israel's customs authorities charged importers 1.5 percent of the import's CIF value for use of ports and stevedores, whereas exporters faced no charges. In effect, imports were subsidizing exports. After several years of pressing Israel to eliminate this GATT-inconsistent policy, in 1995 the United State received a commitment from the Government of Israel to equalize port fees for exporters and importers at 0.6 percent, to take effect by the end of 1996. As a first step, in early 1996, Israel reduced the import fee to 1.3 percent and imposed an export fee of 0.2 percent. No further progress has occurred and 1998 ended without fulfillment of the commitment. Although Israel has indicated it will narrow the gap between the two fees, the United States continues to pursue equalization of these fees.

Tariffs

All remaining duties on United States non-agricultural products were eliminated on January 1, 1995.

Kosher Certification

The United States-Israel FTAA permits measures relating to prohibitions on religious grounds, "provided that they are applied in accordance with the principle of national treatment." In certain cases, United States businesses have complained that the process for granting kosher certificates is discriminatory, and serves to protect domestic products. The process for obtaining kashrut certification is not transparent, as the party seeking certification must pay the "costs" of rabbinical inspection to determine that the ingredients and manufacturing of the product satisfy religious standards. Some businesses claim the fee charged bears no relationship to the actual "costs" of inspection (in some cases, a percentage of sales has been charged, for example). Moreover, indirect supervision by a rabbi resident in the country of manufacture is permitted in some cases but not in others. Significant problems remain in these sensitive sectors. The United States is pursuing these complaints directly with the Government of Israel. Elimination of this barrier could result in an increase in United States exports of an estimated USD 10-25 million.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Israel has reduced the burden of some discriminatory measures against importers. In 1990, Israel agreed to harmonize standards treatment, dropping health and safety standards applied only to imports or making them mandatory for all products. Implementation of this promise has been slow. Enforcement of mandatory standards on domestic producers can be spotty, and in some cases (e.g., refrigerators, auto headlights, plywood, carpets, and labeling for food items), standards, as written, enable domestic goods to meet requirements more easily than imports. In November 1998, Israel revised the official standards for 170 foods, replacing rigid weight and measure requirements with a requirement to show the unit price on labels of non-standard packages, thus eliminating a major barrier to the expansion of United States processed food exports. Elimination of standards barriers could result in a potential increase in United States exports of USD 25-100 million.

GOVERNMENT PROCUREMENT

Israel is a signatory to the WTO Agreement on Government Procurement, which covers most Israeli government entities and government-owned corporations. Open international public tenders are published in the local press. However, government-owned corporations make extensive use of selective tendering procedures.

In accordance with the Israel public tendering law, all international public tenders with a value of at least $100,000 contain requirements for "industrial cooperation" (IC) with Israeli entities in the amount of 35 percent of the value of the total contract. United States companies may invest in local industry, co-develop or co-produce, subcontract to local companies, or purchase from Israeli industry to satisfy the IC offset requirement. United States suppliers have found the size and nature of their IC proposal to be a decisive factor in tight tender competitions, despite a recent court decision that prohibits the use of offset proposals in determining award of a bid.

For civilian local currency procurement by the Ministry of Defense (MOD), a U.S.-Israeli MOU, extended in December 1997, gives United States competitors equal status with domestic suppliers. Despite this MOU, few United States companies have been successful in supplying the MOD. United States suppliers have expressed concerns about the lack of transparency and apparent lack of appropriate justification for excluding U.S. suppliers from MOD tendering opportunities.

LACK OF INTELLECTUAL PROPERTY PROTECTION

In April 1998, Israel was elevated to the “Special 301 Priority Watch List,” largely due to widespread audio CD, cable television, video, and software piracy. Israel currently has an outdated copyright law with low penalties for piracy offenses, which, combined with weak enforcement, has resulted in continued high levels of piracy in these industries in 1998. A draft copyright law has been under review for several years, and the government of Israel has stated its intention to enact and implement the law before December 31, 1999. The proposed legislation is expected to include enhanced rights of distribution in connection with rental rights and imports of copyrighted materials. Rental rights will cover all protected works, including sound recordings, cinematographic works, and computer programs. The legislation also is to include enhanced penalties with fines calculated on a per copy basis to deter copyright piracy on a commercial scale. The two major movie distribution chains generally comply with copyright requirements. A cable broadcast law is also under consideration.

Current Israeli patent law contains overly broad licensing provisions concerning compulsory issuance for dependent and non-working patents. A draft revision of Israel's patent law, now under review, is expected to upgrade patent protection and eliminate compulsory licensing.
Also under consideration are revised laws for the protection of industrial designs, trademarks, and integrated circuits.

Despite U.S. objections, the Government of Israel enacted in 1998 an amendment to the patent law which allows non-patent holders to manufacture patented pharmaceutical products prior to the expiration of patent rights in order to submit data to foreign and Israeli health authorities to gain marketing approval. In addition, in 1998, the Israeli Government introduced legislation to permit the unauthorized parallel importation of pharmaceutical, patented or otherwise, into Israel and to sanction unfair use of test data. In February 1999, despite strenuous U.S. objections, the Knesset approved the legislation.

Israel is a member of the Paris Convention for the Protection of Industrial Property, the Universal Copyright Convention, and the Berne Copyright Convention. In addition, as a signatory to the WTO Agreement on Trade-related Aspects of Intellectual Property (TRIPs), Israel is in the process of making all revisions to its laws necessary to meet the agreement's requirements. U.S. industry estimates losses from software, video, and CD/cassette piracy at $141.2 million. Industry has not provided estimates of 1998 losses due to unauthorized production of patented products.

SERVICES BARRIERS

Telecommunications

Israel's telecommunications sector is being liberalized gradually. Foreign companies participate in joint ventures providing cellular and international telephone service, and domestic phone service is to be opened to competition, including competition involving foreign entities, in 1999. A third cellular licensee was brought to market in 1998, cable regulations will be revised to increase competition, and the first DBS satellite broadcast license was approved in January 1999. Israel's dominant telecommunications carrier, has maintained a discriminatory interconnection charge on calls to and from the United States and Canada. The fee is roughly one-third higher for North American traffic than for traffic to any other part of the world. Israel has made WTO commitments to charge non-discriminatory and cost-based rates for interconnection, a practice which should have been discontinued when these commitments went into force on February 6, 1998.

Other

Israel's financial services sector generally is open to foreign participation, subject to standard regulatory requirements. On behalf of a U.S. company, U.S. officials have raised concerns about the Israeli Postal Authority's involvement in commercial armored courier services, which due to subsidies and tax exemptions, allows it to charge a price substantially lower than its private sector competitors.

INVESTMENT BARRIERS

The Israeli Government actively solicits foreign private investment, including joint ventures, especially in industries involving exports, tourism, telecommunications, and high technology. Foreign firms are accorded national treatment in terms of taxation and labor relations, and are eligible for incentives for designated "approved" investments in priority development zones. There are generally no ownership restrictions, but the foreign entity must be registered in Israel. Profits, dividends, and rents generally can be repatriated without difficulty through a licensed bank.

About 700 major U.S. companies have subsidiaries in Israel, and some 170 Israeli companies have subsidiaries in the United States. Investment in regulated sectors, including banking, insurance, and defense industries, requires prior government approval.

Israel is a member of the International Center for the Settlement of Investment Disputes (ICSID) and a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

ELECTRONIC COMMERCE

Israel is on the cutting edge of Internet software developments and supports U.S. efforts to ensure that electronic transmissions will not be subject to tariffs. No barriers to electronic commerce have been reported by U.S. industry.